

(3) The substitute agency shall submit a State plan that meets the requirements of this part.

(4) The Secretary makes no grant to a substitute agency until the Secretary approves its plan.

(b) *Substitute agency matching share.* The Secretary does not make any payment to a substitute agency unless it has provided assurances that it will contribute the same matching share as the State would have been required to contribute if the State agency were carrying out the vocational rehabilitation program.

(Approved by the Office of Management and Budget under control number 1820–0500)

(Authority: Sec. 107(c)(3) of the Act; 29 U.S.C. 727(c)(3))

§ 361.15 Local administration.

(a) If the State plan provides for local administration, it must—

(1) Identify each local agency;

(2) Assure that each local agency is under the supervision of the designated State unit and is the sole local agency as defined in § 361.5(b)(41) that is responsible for the administration of the program within the political subdivision that it serves; and

(3) Describe the methods each local agency will use to administer the vocational rehabilitation program, in accordance with the State plan.

(b) A separate local agency serving individuals who are blind may administer that part of the plan relating to vocational rehabilitation of individuals who are blind, under the supervision of the designated State unit for individuals who are blind.

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(Authority: Sec. 7(9) and 101(a)(1)(A) of the Act; 29 U.S.C. 706(9) and 721(a)(1)(A))

§ 361.16 Establishment of an independent commission or a State Rehabilitation Advisory Council.

(a) *General requirement.* Except as provided in paragraph (b) of this section, the State plan must contain one of the following two assurances:

(i) An assurance that the State agency is an independent State commission that—

(i) Is primarily concerned with vocational rehabilitation or vocational and other rehabilitation services, in accordance with § 361.13(a)(1)(i);

(ii) Is consumer-controlled by persons who—

(A) Are individuals with physical or mental impairments that substantially limit major life activities; and

(B) Represent individuals with a broad range of disabilities;

(iii) Includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

(iv) Conducts a review and analysis of the effectiveness of and consumer satisfaction with vocational rehabilitation services and providers in the State, in accordance with the provisions in § 361.17(h)(3).

(2) An assurance that—

(i) The State has established a State Rehabilitation Advisory Council (Council) that meets the requirements of § 361.17;

(ii) The designated State unit seeks and seriously considers, on a regular and ongoing basis, advice from the Council regarding the development, implementation, and amendment of the State plan, the strategic plan, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

(iii) The designated State unit transmits to the Council—

(A) All plans, reports, and other information required under the Act to be submitted to the Secretary;

(B) Copies of all written policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

(C) Copies of due process hearing decisions in a manner that preserves the confidentiality of the participants in the hearings; and

(iv) The State plan summarizes annually the advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the State agency's response to the advice and recommendations, including the manner in which the State will modify its policies and procedures

based on the survey of consumer satisfaction and explanations of reasons for rejecting any advice or recommendations of the Council.

(b) *Exception for separate State agency for individuals who are blind.* In the case of a State that designates a separate State agency, under § 361.13(a)(3), to administer the part of the State plan under which vocational rehabilitation services are provided to individuals who are blind, the State plan must contain one of the following four assurances:

(1) An assurance that an independent commission in accordance with paragraph (a)(1) of this section is responsible under State law for operating or overseeing the operation of the vocational rehabilitation program of both the State agency that administers the part of the State plan under which vocational rehabilitation services are provided to individuals who are blind and the State agency that administers the remainder of the State plan.

(2) An assurance that—

(i) An independent commission that is consumer-controlled by, and represents the interests of, individuals who are blind and conducts a review and analysis of the effectiveness of and consumer satisfaction with vocational rehabilitation services and providers, in accordance with the provisions of § 361.17(h)(3), is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for individuals who are blind; and

(ii) An independent commission that is consumer-controlled in accordance with paragraph (a)(1)(i) of this section and conducts a review and analysis of the effectiveness of and consumer satisfaction with vocational rehabilitation services and providers, in accordance with § 361.17(h)(3), is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for all individuals with disabilities, except individuals who are blind.

(3) An assurance that—

(i) An independent commission that is consumer-controlled by, and represents the interests of, individuals who are blind and that conducts a review and analysis of the effectiveness

of and consumer satisfaction with vocational rehabilitation services and providers, in accordance with § 361.17(h)(3), is responsible under State law for operating, or overseeing the operation of, the vocational rehabilitation program in the State for individuals who are blind; and

(ii) The State has established a State Rehabilitation Advisory Council that meets the criteria in § 361.17 and carries out the duties of a Council with respect to functions for, and services provided to, individuals with disabilities, except for individuals who are blind.

(4) An assurance that—

(i) An independent commission that is consumer-controlled in accordance with paragraph (a)(1)(i) of this section and conducts a review and analysis of the effectiveness of and consumer satisfaction with vocational rehabilitation services and providers, in accordance with the provisions of § 361.17(h)(3), is responsible under State law for operating or overseeing the operation of the vocational rehabilitation services for all individuals in the State, except individuals who are blind; and

(ii) The State has established a State Rehabilitation Advisory Council that meets the criteria in § 361.17 and carries out the duties of a Council with respect to functions for, and services provided to, individuals who are blind.

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(Authority: Sec. 101(a)(32) and 101(a)(36) of the Act; 29 U.S.C. 721(a)(32) and 721(a)(36))

§ 361.17 Requirements for a State Rehabilitation Advisory Council.

If the State plan contains an assurance that the State has established a Council under § 361.16(a)(2), (b)(3)(ii), or (b)(4)(ii), the State plan must also contain an assurance that the Council meets the following requirements:

(a) *Appointment.* (1) The members of the Council shall be—

(i) Appointed by the Governor; or

(ii) If State law vests appointment authority in an entity other than, or in conjunction with, the Governor (such as one or more houses of the State legislature or an independent board that